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June 3, 1991

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Assistant Regional Counsel  
U.S. Environmental Protection Agency  
Region 5  
230 South Dearborn Street  
Chicago, Illinois 60604

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

**Re: Hi-Mill Manufacturing Company  
Dispute Resolution  
Vertical Profiling**

Dear Ms. Gonzales:

This is a follow-up to the telephone conference of May 23, 1991, between USEPA, MDNR, and representatives of Hi-Mill. The purpose of that telephone conference was to attempt, in good faith, to resolve the dispute concerning vertical profiling. The purpose of this letter is to set forth, for the record, Hi-Mill's good faith participation in reaching a resolution of the dispute. Additionally, EPA's initial response dated May 17, 1991, set forth information pertaining to vertical profiling which Hi-Mill was not aware of upon the filing of its request for dispute resolution. This letter clarifies, for the record, that break-down in communication.

Generally Hi-Mill does not believe that vertical profiling of the intermediate aquifer is justified at this time. This is because the data gives no indication that the intermediate aquifer was impacted by the operations of Hi-Mill.

Further, our understanding when entering the dispute resolution process was that the EPA/MDNR were requesting only two vertical profiling locations. The March 1, 1991, MDNR comments on the Phase II Work Plan only discuss vertical profiling at IW-1 and SW-18. The May 15, 1991, Phase II Work Plan clearly demonstrates the two location understanding. However, the EPA dispute resolution response letter, dated May 17, 1991, and received May 22, 1991, indicated that five locations were now necessary to characterize the intermediate aquifer. This increase in the number of vertical profiling locations, as the dispute resolution process continues, does not appear to represent good faith negotiations by the USEPA/MDNR.

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In order to resolve the dispute, Hi-Mill extended an offer to USEPA to vertically profile at two locations west of SW-1 and SW-3. The two locations selected were based on the potential for greatest impact from previous plant operations. The two locations proposed are downgradient of each former UST area (i.e., near SW-1 and SW-3). The former UST areas are two potential source areas and represent an area where, if impacted, would be detected. Both locations are also downgradient of the former lagoons. The response from the EPA/MDNR was that two locations were unacceptable and that additional locations were now required: five locations as stated in their letter dated May 17, 1991, and subsequently modified of four locations as a counter-offer by EPA in the dispute resolution telephone conference on May 23, 1991. The four locations selected by the EPA/MDNR on May 23, surrounded the facility and are as follows:

- \* Near SW-1
- \* Near SW-3
- \* Near IW-1
- \* Between SW-8 and SW-10

Hi-Mill disagrees with the rationale for four vertical profiling locations. The EPA/MDNR rationale for the IW-1 location is that chromium concentrations were detected in the intermediate aquifer at this location. As stated in the dispute resolution request letter of May 6, 1991, chromium concentrations were also detected in the blank and therefore the probability exists that ground water sampling results for chromium were influenced by the blank contamination. A second round of ground water sampling would fully resolve this issue. If the second round of sampling indicates that chromium is non-detectable, then vertical profiling is not warranted in this location. However, if the second round of sampling indicates detectable chromium concentrations, Hi-Mill would then consider vertical profiling in that location.

Hi-Mill also disagrees with a vertical profiling location placed between SW-8 and SW-10. The rationale for this location is unclear except to surround the facility on all sides with vertical profiling. The location selected between SW-8 and SW-10 is upgradient of the site based on all available intermediate aquifer

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data. The current data indicates a westerly ground water flow direction. An upgradient location does not address the stated objectives for vertical profiling (e.g. observe impacts from former operations at the Hi-Mill facility). An upgradient location can not observe impacts from the facility.

On behalf of Hi-Mill, we again wish to state that we do not believe that vertical profiling near SW-1 and SW-3 is necessary, but that this was simply a good faith offer to resolve the dispute. Since our client wishes to move forward at the site, we would appreciate USEPA's resolution of this matter as quickly as possible. Should you have any questions, please feel free to contact me at (313) 225-7042.

Very truly yours,

  
Robert Charles Davis

RCD:mpg

cc: Hi-Mill Manufacturing Company  
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Debbie Larson  
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